

REMARKS

Status of the Claims:

Claims 1-7, 14, 15, 19-28, 30-33 and 35-38 are pending. No claim is allowed at this time. Claims 1-7, 14, 15, 19-28, and 30-33 have been amended in the present amendment. No new claims have been presented. Claims 35-38 have been canceled. Claims 1-7, 14, 15, 19-28, and 30-33 will be pending if the current amendment is entered.

A. Rejection Under 35 U.S.C. § 112: - Written Description.

Claims 35-38 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Applicants have canceled claims 35-38 to expedite allowance of this application. Applicants respectfully request that this rejection be withdrawn.

B. Rejection Under 35 U.S.C. § 112: - Indefiniteness.

Claims 1-7, 14, 15, 19-28, 30-33 and 35-38 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention for reciting "modulation".

Applicants have canceled claims 35-38 to expedite allowance of this application. Claims 1-7, 14-15, 19-28, and 30-33 have been amended to delete "modulator" and insert therefore "compound." Applicants submit that the term "compound" complies with the definiteness requirement of 35 U.S.C. § 112, second paragraph. Applicants respectfully request that this rejection be withdrawn.

C. 2nd Rejection Under 35 U.S.C. § 112: - Indefiniteness.

Claim 30 was rejected for not canceling all of the non-elected compounds with respect to compound number and structure.

Applicants have amended claim 30 to delete the structure of compound number 95, which Applicants believe is a non-elected compound. Accordingly, Applicants respectfully request that this rejection be withdrawn.

D. Double Patenting Rejection:

Claims 1-7, 14, 15, 19-28, and 30-33 stand provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-26 of co-pending Application No. 11/478,456.

As of May 30, 2008, Applicants have not filed a response in 11/478,456 to the November 14, 2008 Restriction Requirement. Accordingly, the 11/478,456 application is no longer pending. Therefore, Applicants respectfully request that this provisional rejection be withdrawn.

CONCLUSION

Applicants believe that claims 1-7, 14, 15, 19-28, and 30-33 are now in condition for allowance. The Examiner is invited to contact the undersigned agent for the applicants via telephone if such communication would expedite this application.

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

Respectfully submitted,

Dated: June 2, 2009

/Eric J. Baude/
Eric Baude, Reg. No. 47,413
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR, MI 48104
(734) 302-6010